

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA**

Timothy Ray Wirtz,	)	
	)	No. 8:13-1041-RMG
Plaintiff,	)	
	)	<b>ORDER</b>
v.	)	
	)	
Sgt. David McMahan, <i>in his unofficial capacity,</i>	)	
	)	
Defendant.	)	
	)	

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This matter comes before the Court on the Report and Recommendation (R & R) of the Magistrate Judge (Dkt. No. 37), recommending that this action be summarily dismissed without prejudice. Plaintiff has not filed objections to the R & R. For the reasons stated below, the Court adopts the R & R and dismisses this action without prejudice.

**Legal Standard**

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). The Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C. § 636(b)(1). This Court is charged with making a de novo determination of those portions of the R & R to which specific objection is made.

Here, however, because no objection has been made, this Court “must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P 72 advisory committee note). Moreover, in the absence of specific objections to the R &

R, the Court need not give any explanation for adopting the Magistrate Judge's analysis and recommendation. *See Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983).

### **Discussion**

The Court agrees with the Magistrate Judge that Plaintiff's claims are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994). In *Heck v. Humphrey*, the Supreme Court held that a state prisoner cannot bring a Section 1983 suit for damages where a judgment in favor of the prisoner would necessarily imply the invalidity of his conviction or sentence. *Id.* at 486-87. Here, Plaintiffs' claims of false imprisonment and that Defendant planted evidence necessarily imply the invalidity of his convictions. Therefore,

the Court **ADOPTS** the R & R (Dkt. No. 37) and **DISMISSES** this action without prejudice.

**AND IT IS SO ORDERED.**



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Richard Mark Gergel  
United States District Judge

June 5, 2015  
Charleston, South Carolina